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 Trust and Julie Shirley

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Attorneys for Defendant and Third Party Complainant,
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 N.A., f/k/a Wachovia Mortgage, FSB (“Wachovia”)

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Attorneys for Third Party Defendants
 LSI Title Company, Lender Processing Services, Inc.
 and Fidelity National Information Services, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

JOHN SHIRLEY, individually and as trustee)
 of the JOHN F. SHIRLEY and JULIE E.)
 SHIRLEY 2003 TRUST and JULIE)
 SHIRLEY,)
)
 Plaintiffs,)
)
 vs.)
)
 WACHOVIA MORTGAGE FSB, WELLS)
 FARGO BANK N.A. and DOES 1-10,)
)
 Defendants.)

Case No. 3:10-cv-03870-SC
 [Assigned to the Honorable Samuel Conti]

**JOINT STIPULATION AND ORDER
 GRANTING CONTINUANCE OF TRIAL
 AND ASSOCIATED DEADLINES**

1	WACHOVIA MORTGAGE, a division of)
2	Wells Fargo Bank, N.A., formerly known as)
3	Wachovia Mortgage, FSB,)
4	Third Party Complainant,)
5	vs.)
6	LSI TITLE COMPANY; LENDER)
7	PROCESSING SERVICES, INC.; FIDELITY)
8	NATIONAL INFORMATION SERVICES,)
9	INC.; and ROES 1 through 10, inclusive,)
10	Third Party Defendants.)

11 TO THE HONORABLE COURT:

12 Pursuant to Local Rules 6-2, 7-12, and 40-1, plaintiffs John Shirley (individually and as
 13 trustee of the John F. Shirley and Julie E. Shirley 2003 Trust) and Julie Shirley, individually
 14 (“plaintiffs”), defendant and third party complainant Wachovia Mortgage, a division of Wells
 15 Fargo Bank, N.A., formerly known as Wachovia Mortgage, FSB (“Wachovia”), and third party
 16 defendants LSI Title Company, Lender Processing Services, Inc., and Fidelity National
 17 Information Services, Inc. (the “third party defendants”) (collectively, the “parties”) seek an order
 18 resetting existing case deadlines and the trial date. Grounds for the request are set forth in the
 19 following recitals.

20 RECITALS

21 A. On August 26, 2011, plaintiffs and Wachovia filed a joint stipulation that
 22 requested leave of court allowing Wachovia to file a third party complaint that would bring the
 23 third party defendants into this action. (Doc. 31). As noted in this stipulation, bringing the third
 24 party defendants into this suit served two critical functions. First, it served the interests of
 25 judicial economy, because the surviving claim in the First Amended Complaint and Wachovia’s
 26 claims against the third party defendants (as Wachovia’s closing agent) arise out of the same
 27 loan transaction and occurrence. A determination of all claims in one proceeding is necessary
 28 and appropriate to avoid the multiplicity of actions that would result if Wachovia were required

1 to defend against plaintiffs' claims and then litigate a separate action against the third party
2 defendants for indemnification. Second, inclusion of all necessary defendants in this action will
3 help facilitate serious settlement discussions.

4 B. On August 31, 2011, the Court issued an order that granted Wachovia leave to file
5 a third party complaint by September 10, 2011. (Doc. 32). Wachovia filed and served its third
6 party complaint on the third party defendants on September 8, 2011. (Docs. 33 - 36).

7 C. On October 5, 2011, Wachovia and the third party defendants filed a stipulation
8 pursuant to Local Rule 6-1(a), allowing the third party defendants to file their response to
9 Wachovia's third party complaint by November 4, 2011. (Doc. 43). This will allow the response
10 to be heard by the present cut-off for motion hearings in this case, which is set for December 9,
11 2011. (Doc. 30).

12 D. As set forth in the accompanying Declaration of Michael Rapkine ("Rapkine
13 Decl."), counsel for the third party defendants has emphasized that given the fact that they were
14 recently retained, it will not be possible to adequately prepare for trial should the present
15 deadlines remain in place. (Rapkine Decl. ¶ 5). In addition, a continuance of the existing case
16 schedule will allow the parties to engage in meaningful settlement discussions without the need
17 for further motion practice.

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STIPULATION

Subject to this Court's consent, the parties stipulate that the present trial date and associated deadlines be vacated, thereby allowing the parties sufficient time to conduct discovery, prepare for trial, and engage in settlement negotiations. Based on the fact that the third party defendants were recently joined in this action, the parties respectfully request that the currently scheduled dates be continued 120 days, as set forth in the proposed order that accompanies this stipulation. Or in the alternative, the parties request that the existing deadlines be continued to dates convenient to the Court.

Respectfully Submitted,

Dated: October 18, 2011

JOHNSTON THOMAS, Attorneys at Law

By: Ryan Thomas
 Ryan Thomas
rthomas@johnstonthomas.com

Attorneys for Plaintiffs,
 John Shirley, individually and as trustee of the
 John F. Shirley and Julie E. Shirley 2003
 Trust and Julie Shirley

Dated: October 18, 2011

ANGLIN, FLEWELLING, RASMUSSEN,
 CAMPBELL & TRYTTEN LLP

By: Michael Rapkine
 Michael Rapkine
mrakine@afrc.com

Attorneys for Defendant and Third Party Complainant,
 Wachovia Mortgage, a division of Wells Fargo Bank,
 N.A., f/k/a Wachovia Mortgage, FSB ("Wachovia")

Dated: October 18, 2011

PAYNE & FEARS LLP

By: Daniel M. Livingston
 Daniel M. Livingston
dml@paynefears.com

Attorneys for Third Party Defendants,
 LSI Title Company, Lender Processing Services, Inc.
 and Fidelity National Information Services, Inc.

CERTIFICATE OF SERVICE

I, the undersigned, declare that I am over the age of 18 and am not a party to this action. I am employed in the City of Pasadena, California; my business address is Anglin, Flewelling, Rasmussen, Campbell & Trytten LLP, 199 S. Los Robles Avenue, Suite 600, Pasadena, California 91101-2459.

On the date below, I served a copy of the following document entitled:

JOINT STIPULATION AND ORDER GRANTING CONTINUANCE OF TRIAL AND ASSOCIATED DEADLINES

on all interested parties in said case addressed as follows:

Served Electronically Via the Court's CM/ECF System:

Attorneys for Plaintiff

Ryan Thomas, Esq.
Roy N. Johnston, Esq.
JOHNSTON | THOMAS
1400 N. Dutton Avenue, Suite 21
Santa Rosa, CA 95401
Tel.: 707.545.6542 | Fax: 707.545.1522
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Served By Means Other Than Electronically Via the Court's CM/ECF System:

SEE ATTACHED SERVICE LIST

☒ **(BY MAIL):** I am readily familiar with the firm's practice of collection and processing correspondence by mailing. Under that same practice it would be deposited with U.S. Postal Service on that same day with postage fully prepaid at Pasadena, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. This declaration is executed in Pasadena, California, on **October 21, 2011**.

Barbara Cruz
(Type or Print Name)

/s/ Barbara Cruz
(Signature of Declarant)

SERVICE LIST

***Attorneys for Third Party Defendants
LSI Title Company, Lender Processing Services, Inc.
and Fidelity National Information Services, Inc.***

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

Case No. 3:10-cv-03870-SC

ORDER GRANTING CONTINUANCE OF TRIAL AND ASSOCIATED DEADLINES

1 Having read and considered the foregoing stipulation signed by all parties, and good cause
2 appearing:

3 **IT IS HEREBY ORDERED:**

4 1. That all current case deadlines are vacated and the Court adopts the following
5 amended schedule:

6 Discovery Cutoff: April 6, 2012

7 Final Hearing Date For Motions: ~~April 9, 2012~~ April 6, 2012 @ 10:00 a.m.

8 Pretrial Conference: ~~May 28, 2012~~ May 25, 2012 @ 10:00 a.m.

9 Commencement of Jury Trial: ~~June 6, 2012~~ June 4, 2012 @ 9:30 a.m.

10
11 Dated: October 24, 2011



CERTIFICATE OF SERVICE

I, the undersigned, declare that I am over the age of 18 and am not a party to this action. I am employed in the City of Pasadena, California; my business address is Anglin, Flewelling, Rasmussen, Campbell & Trytten LLP, 199 S. Los Robles Avenue, Suite 600, Pasadena, California 91101-2459.

On the date below, I served a copy of the following document entitled:

ORDER GRANTING CONTINUANCE OF TRIAL AND ASSOCIATED DEADLINES

on all interested parties in said case addressed as follows:

Served Electronically Via the Court's CM/ECF System:

Attorneys for Plaintiff

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Roy N. Johnston, Esq.
JOHNSTON | THOMAS
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Santa Rosa, CA 95401
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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. This declaration is executed in Pasadena, California, on **October 21, 2011**.

Barbara Cruz
(Type or Print Name)

/s/ Barbara Cruz
(Signature of Declarant)

SERVICE LIST

***Attorneys for Third Party Defendants
LSI Title Company, Lender Processing Services, Inc.
and Fidelity National Information Services, Inc.***

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Attorneys for Defendant and Third Party Complainant,
 Wachovia Mortgage, a division of Wells Fargo Bank,
 N.A., f/k/a Wachovia Mortgage, FSB (“Wachovia”)

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

JOHN SHIRLEY, individually and as
 trustee of the JOHN F. SHIRLEY and
 JULIE E. SHIRLEY 2003 TRUST and
 JULIE SHIRLEY,

Plaintiffs,

vs.

WACHOVIA MORTGAGE FSB, WELLS
 FARGO BANK N.A. and DOES 1-10,

Defendants.

Case No. 3:10-cv-03870-SC

[Assigned to the Honorable Samuel Conti]

**DECLARATION OF MICHAEL
 RAPKINE IN SUPPORT OF JOINT
 STIPULATION AND ORDER
 GRANTING CONTINUANCE OF TRIAL
 AND ASSOCIATED DEADLINES**

WACHOVIA MORTGAGE, a division of
 Wells Fargo Bank, N.A., formerly known as
 Wachovia Mortgage, FSB,

Third Party Complainant,

vs.

LSI TITLE COMPANY; LENDER
 PROCESSING SERVICES, INC.; FIDELITY
 NATIONAL INFORMATION SERVICES,
 INC.; and ROES 1 through 10, inclusive,

Third Party Defendants.

///

1 I, Michael Rapkine, declare:

2 1. I am an attorney at law licensed before this Court and associated with the law firm
3 of Anglin, Flewelling, Rasmussen, Campbell & Trytten LLP, counsel of record for defendant and
4 third party complainant Wachovia Mortgage, a division of Wells Fargo Bank, N.A., formerly
5 known as Wachovia Mortgage, FSB. ("Wachovia"). I make this declaration in support of the joint
6 stipulation of all parties and proposed order granting a continuance of the trial date and associated
7 deadlines.

8 2. Having exhausted non-judicial alternatives in the hope of obtaining full
9 indemnification or partial indemnity towards a global settlement, Wachovia had no choice but to
10 pursue its third party claims against the closing agent and affiliates (the "third party
11 defendants"). On August 31, 2011, this Court issued an order that granted Wachovia leave to
12 file a third party complaint by September 10, 2011. (Doc. 32). Wachovia filed and served its
13 third party complaint on the third party defendants on September 8, 2011. (Docs. 33 - 36).

14 3. Pursuant to the current scheduling order in effect (Docs. 29 and 30), all discovery
15 must be completed by December 6, 2011; all motions shall be heard by December 9, 2011; a pre-
16 trial conference shall be held on January 27, 2012; and trial shall commence on February 6, 2012.

17 4. Given that the third party defendants just recently retained counsel, the undersigned
18 respectfully requests that the existing case schedule be continued so that the third party defendants
19 can assess their exposure, thereby allowing all parties to engage in meaningful settlement
20 negotiations without the need for further motion practice.

21 5. More importantly, counsel for the third party defendants (Daniel M. Livingston of
22 Payne & Fears, LLP) has emphasized that given the fact that they were recently retained, it will
23 not be possible for his firm to adequately prepare for trial should the present case deadlines remain
24 in place.

25 6. Pursuant to Local Rule 6-2(a)(2), this is the second request for a continuance in this
26 action. Previously, plaintiff and Wachovia requested a one-month continuance of the hearing on
27 Wachovia's initial 12(b)(6) motion, which was granted by this Court. (Docs. 7 and 9).

28 ///

1 I declare under penalty of perjury under the laws of the United States and the State of
2 California that the foregoing is true and correct. If called upon to testify, I would and could
3 competently testify thereto.

4 Executed this 21st day of October 2011, at Pasadena, California.

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6 /s/ Michael Rapkine

7 Michael Rapkine
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CERTIFICATE OF SERVICE

I, the undersigned, declare that I am over the age of 18 and am not a party to this action. I am employed in the City of Pasadena, California; my business address is Anglin, Flewelling, Rasmussen, Campbell & Trytten LLP, 199 S. Los Robles Avenue, Suite 600, Pasadena, California 91101-2459.

On the date below, I served a copy of the following document entitled:

**DECLARATION OF MICHAEL RAPKINE IN SUPPORT OF
JOINT STIPULATION AND ORDER GRANTING CONTINUANCE
OF TRIAL AND ASSOCIATED DEADLINES**

on all interested parties in said case addressed as follows:

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Barbara Cruz
(Type or Print Name)

/s/ Barbara Cruz
(Signature of Declarant)

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